

**221 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-24300-2017

Date of decision : 19.09.2023

Mahabir Singh

.....Petitioner

versus

Superintending Canal Officer and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Peeush Gagneja, Advocate
for the petitioner.

Mr. Arun William, AAG, Punjab.

Mr. S.S. Brar, Advocate
for respondent No.3.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the impugned order dated 24.04.2017 (Annexure P-1) passed by the Divisional Canal Officer-respondent No.2, and order dated 01.09.2017 (Annexure P-3) passed by the Superintending Canal Officer-respondent No.1, as the same are against the principles of natural justice, cryptic and non-speaking and are not based on the facts and the situation at the spot.

The facts of the case as submitted before this Court are that the petitioner is aggrieved by the impugned orders passed by the Canal Authorities, whereby 14.49 acres of land of respondent No.3 had been transferred from Outlet No.88625-T.R. Ramsara Miner Chak, to Outlet No.196900 T.R. Lambi Rajabaha Chak. Respondent No.3 namely, Ved Parkash filed the petition before respondent No.2 on 24.04.2017 stating

therein that his land is not properly irrigated from the existing outlet and hence, area of approximately 15 acres of his land should be transferred from the existing outlet and sanctioned at Outlet No.196900-T.R. Lambi Rajabaha. The respondent-authorities vide impugned order dated 24.04.2017 had transferred 14.49 acres of land of respondent No.3 from Outlet No.88625-T.R. Ramsara Miner Chak to Outlet No.196900 T.R. Lambi Rajabaha Chak. Aggrieved by the same, petitioner had filed an appeal before respondent No.1-Superintending Canal Officer, Ferozepur and the same was dismissed by respondent No.1 vide order dated 01.09.2017. Aggrieved by the said order, petitioner has approached this Court by way of filing the present petition.

It has been contended by counsel for the petitioner that respondent No.3 had earlier also filed application before the Divisional Canal Officer, Abohar for transfer of 19.49 acres of land from Outlet No.88625/T.R. Ramasara Miner to Outlet No.196900-R Lambi Rajbaha. He has submitted that after careful consideration, learned Divisional Canal Officer vide his order dated 07.07.2005 had dismissed the said application but vide order dated 24.04.2017, the same authority had transferred the land to Outlet No.196900-R Lambi Rajabaha which is totally unsustainable in the eyes of law. He has submitted that on the earlier occasion, respondent No.3 had also got transferred his land from the Chak of Outlet No.196900/TR Lambi Rajbaha to the Chak of Outlet No.88625/TR Ramsara Miner, decision in this regard was taken on 19.05.2004 and the turn of water was implemented on 12.07.2004. He has submitted that for the total 111.37 acres of land transferred from Chak of Outlet No.196900/TR Lambi Rajbaha to Chak of Outlet No.88625/TR

Ramsara Minor, a writ petition i.e. CWP-10168 of 2004 was filed before this Court and during the pendency of aforesaid writ petition, respondent No.3 was trying to get his 19.49 acres of land transferred from Outlet No.88625/R Ramasara Miner to 196900/TR Lambi Rajbaha Chak. Thus, while mentioning about the pendency of the writ petition, application filed by respondent No.3 was dismissed and no appeal was filed by respondent No.3 against the said order dated 07.07.2005.

Learned counsel for respondent No.3 has opposed the submissions made by counsel for the petitioner. He has submitted that the respondent had filed the application before respondent No.2 that his land was not being properly irrigated so the same be transferred from existing Outlet No.88625-TR Ramsara to Outlet No.196900/TR Lambi Rajbaha. He has submitted that total area was about 15 acres. He has submitted that after inspecting the site, report of Zileदार and Sub Divisional Officer was considered by respondent No.2 and thereupon the transfer of land of the respondent was considered and the prayer was accepted by respondent No.2 by sanctioning the transfer of land to the new Outlet. He has submitted that petitioner had filed an appeal against the same and the same was dismissed. He has submitted that petitioner had also filed CWP-10168-2004 with regard to Outlet No.196900/TR Lambi and Outlet No.88625/R Ramasara Minor and the same was dismissed as not pressed vide order dated 22.08.2006. He has submitted that the impugned orders have been passed keeping in view the better irrigation and thus, the impugned orders suffer from no illegality and hence, the petition deserves to be dismissed being devoid of any merits.

Learned State counsel has submitted that earlier the petitioner approached this Court by way of filing CWP-10168-2004 wherein the State counsel had given a statement that new Outlet would be opened to redress the grievance of the petitioner, on the basis of same, that writ was dismissed as not pressed. He has submitted that as per the undertaking given, the new Outlet has already been sanctioned and thus, there is no merit in the petition as the grievances of the petitioner has already been redressed.

Heard. After hearing counsel for the parties and Mr. Sukhjit Singh, Divisional Canal Officer, present in the Court and perusing the record, it is apparent that the petition had been filed praying for impugning the orders dated 24.04.2017 and 01.09.2017. The Divisional Canal Officer who is present in the Court has produced the chart giving the details of the action taken by the State for the redressal of the grievances of the parties. He has submitted that 19.49 acres area was transferred from 196900/R Lambi Rajbaha to 88625/R Ramsara Miner in July, 2004. Thereafter, in 2017, 14.49 acres area was transferred from 88625/R Ramsara Miner to Outlet No.196900/TR Lambi Rajbaha. It is submitted by the learned Divisional Canal Officer that the warabandi could not be implemented due to the pendency of the writ petition. He has also submitted that the area of the petitioner is part of the Outlet No.196900/TR Lambi Rajbaha and some of the area has been transferred to the Outlet No.6500/TF Dhinga Wali Minor. He has submitted that as per the new proposal, Dhinga Wali Minor, the total area falling under the original 6500/TF was 2191.30 acres and in 2008, 1140.71 acres was transferred to 6500/TFR whereas, 1050.59 acres was transferred by

6500/TFL. It is submitted that as per this new proposal, the grievances of both the sides have been redressed and there is no loss of water in irrigating the land of the petitioner and thus, the contentions raised are without any basis.

In view of the above, it is apparent that the grievance of the petitioner and that of the respondents have been very well taken care of by the respondents-State by sanctioning the new Outlet and fields of the parties are being irrigated in an efficient manner. Thus, this Court does not find any infirmity in the orders dated 24.04.2017 and 01.09.2017 and the petition being devoid of any merits is hereby dismissed.

(**RAJESH BHARDWAJ**)
JUDGE

19.09.2023
m. sharma

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No